

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY
AMERICAS (FKA BANKERS TRUST
COMPANY) and JP MORGAN CHASE
BANK in their separate capacities and as
agents for the pre- and post-petition Lender
Defendants of Fleming Companies, Inc.;
GENERAL ELECTRIC CAPITAL
CORPORATION; C&S WHOLESALE
GROCERS, INC.; THE POST-
CONFIRMATION TRUST OF FLEMING
COMPANIES, INC.; ROBERT KORS;
CORE-MARK HOLDINGS INC. AND DOES
1 TO 200,

Defendants.

Case No. 01:07 CV 7634 (WHP)

ECF Case

AFFIDAVIT OF ERIN N. BRADY IN SUPPORT OF DEFENDANTS' REPLY IN SUPPORT
OF THEIR JOINT MOTION FOR SECURITY PURSUANT TO LOCAL RULE 54.2

KIRKLAND & ELLIS LLP

Erin N. Brady (*pro hac vice* pending)

777 South Figueroa Street

Los Angeles, California 90017

Telephone: (213) 680-8400

Facsimile: (213) 680-8500

Email: ebrady@kirkland.com

Counsel for Defendants Fleming Post Confirmation
Trust and Robert Kors

AFFIDAVIT OF ERIN N. BRADY

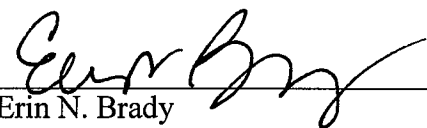
I, ERIN N. BRADY, testify as follows:

1. I am a partner at the law firm Kirkland & Ellis LLP. My firm has been retained to represent Defendants the Post-Confirmation Trust ("PCT") and Robert Kors in this lawsuit. I have personal knowledge of the facts set forth herein and, if called to testify, could and would testify competently thereto.

2. Attached as Exhibit L is a true and correct copy of demand letter dated May 22, 2007 sent by Lex Smith to Timothy Hogan.

3. Attached as Exhibit M is a true and correct copy of demand letter dated September 11, 2007 sent by Lyle S. Hosoda to Timothy Hogan.

So sworn under penalty of perjury under the Laws of the United States of America in Los Angeles, California March 28th, 2008.


Erin N. Brady

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los AngelesOn 3-28-08

Date

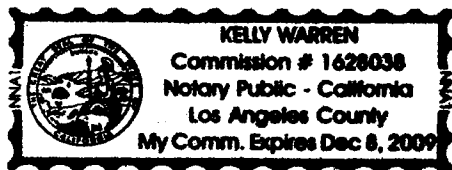
before me,

Kelly Warren, Notary Public

Here Insert Name and Title of the Officer

personally appeared Erin N. Brady

Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Affidavit of Erin N. Brady

Document Date:

3-28-08

Number of Pages:

2

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**
 Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**
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